

BOARD OF ZONING APPEALS - Minutes of February 25, 2020

7:00 pm ★ Municipal Complex (687 Decatur) *Courtroom* ★ Vermilion, Ohio

Roll Call: Bob Voltz, Dave Chrulski, Guy LeBlanc, Philip Laurien. *Absent:* Dan Phillips

Attendees: Bill DiFucci, Building Inspector; Steve Holovacs, Council Rep., Guest: Mayor Forthofer

NOTE: OFFICIAL ACTION REQUIRES 3 AFFIRMATIVE VOTES, See COV 1264.02(b); Therefore, *Motions will be stated in the positive (e.g., To Grant... / To Waive... / To Determine...); and a member=s >Yes= vote means Agree and a >No= vote means Disagree.

Bob Voltz, Vice-Chair called the February 25, 2020 meeting to order.

APPROVAL OF MINUTES:

G. LeBlanc MOVED; D. Chrulski seconded to approve the meeting minutes of January 28, 2020. Roll Call Vote 3 YEAS; 1 ABSTENTION (New Member – P. Laurien). **MOTION CARRIED.**

An *Oath* of truthfulness was administered to those in attendance who planned to speak during these proceedings. *Bob Voltz* described how meetings are conducted, explained the avenue of recourse available when a variance request or appeal might be denied, and gave a reminder that it takes 3 affirmative votes for an action (motion*) to pass.

OLD BUSINESS:

[R-4] Church of God of Prophecy (Jeff Baker) 1183 Douglas Street (Allow Side Yd Placement/Shed)

Applicable City code section(s) cited:

1272.12 *Utility buildings are to be located in the rear yard – proposed = side yard;*
variance request to allow side yard placement.

Pastor Jeff Baker representing the Church of God of Prophecy explained there's an existing shed located on the side property that is deteriorating and they probably will need to tear it down. However, the problem with the back of the property is that it's very wet and it would take quite a bit to build the foundation up. Where the shed is located now, they have a solid foundation where the parking lot was put in. There is gravel on that side and it's very solid. They want to put the new shed approximately 25' from the old shed. The shed will be to the west of the property. B. Voltz asked if the shed was already constructed. Pastor Baker said this was his fault. They bought the lumber and his intention was to get a permit a certain day, but he forgot, and communication failed between him and the person building the shed, so he started to begin the work.

D. Chrulski asked who lives in the house adjacent to the back yard of the church. Pastor Baker wasn't certain of her name. D. Chrulski asked if the house had any association to the church or was it a private residence. Pastor Baker said it is a private residence. G. LeBlanc asked if the church reached out to this resident. Pastor Baker said on numerous occasions he tried to talk to the elderly woman, but she never answered the door, so they dropped off a letter in her mailbox but have not heard back from her.

B. Voltz asked if the shed intends to remain in the location it is currently. Pastor Baker said yes. B. Voltz asked if there was any reason why they didn't want to construct it adjacent to where the other one is located. Pastor Baker said they hope to move out the stuff in the old shed as it's starting to rot since it's about 25 years old.

D. Chrulski asked if the new shed is square to the property. It was conveyed that it is squared to the driveway.

P. Laurien said in the shed's current state they could probably pick it up and move it closer to the other shed. Pastor Baker said it's heavy and there's nothing but standing water. They jacked the building up with three-ton jacks and put cinder blocks underneath it with beams, and now the beams are almost underground due to how wet the ground is.

P. Laurien asked if neighbors receive a written notice on variance requests. The board members said a sign is placed notifying residents of the variance request. G. LeBlanc said there is a sheet attached to the application where applicants are encouraged to notify all neighboring property owners within 100' and inside city limits. P. Laurien asked if the church sent a letter to the neighbor. Pastor Baker said he tried to, but still never heard back from her.

D. Chrulski asked the building inspector for a point of clarification if the shed was constructed without a building permit. B. DiFucci said this was correct.

B. Voltz asked if the shed is sitting off the parking lot in gravel and Pastor Baker confirmed.

P. Laurien said since the letter was put in the neighbor's mailbox and nobody is present tonight, then he suggested to the board to approve this application.

P. Laurien MOVED; G. LeBlanc seconded to approve this application as submitted. Vote 3 YEAS; 1 NAY (Chrulski). **MOTION CARRIED.**

[R-1] 2020 Sunnyside Rd; Applicant: Timothy Nelson (Detached Garage/Max Sq. Footage)

Applicable City code section(s) cited:

1272.11(e) Maximum square footage = 769 – proposed = 1800; variance request of 1032 sq. ft.

Application amended 2/25/2020 to include:

1270.02 (i) (3) Driveway to be hard-surfaced; variance request to allow gravel

Timothy Nelson of 2020 Sunnyside Road explained his intent is to construct a 36'x 50' garage south of his residence and about 65' off the road edge. It will have a 12' wall height.

P. Laurien said on the plot plan as submitted it looks like the building encroaches on the driveway. T. Nelson said he will not encroach on the driveway. The driveway will no longer be a continuous horseshoe. He'll square up the section to the north of the building so it's more like a parking area, and then the driveway which is basically sitting in front of the building will be widened to the south a little bit, so it shoots out and goes in front of the building. P. Laurien asked which sides of the garage the doors will be on. T. Nelson said the doors will be facing the road – 2 – 12' x 10' garage doors. The furthest south will be a 12' door – separated by 2' and then another 12' x 10' door, and then a man door will also be on the front of the building, which will

be closest to the house, but still facing the road. There will be a couple windows north of the building and on the back corner of the building.

B. Voltz asked if there were any concerns with the roof/peak height. B. DiFucci said it's under the 15' code restriction. He said they talked about widening the driveway as it would need to be hard-surfaced; if not, then he advised T. Nelson he could present that to the board tonight as well, by amending the application as such. T. Nelson said it will not be concrete as he would like it to remain gravel. B. DiFucci said the board would need to approve allowing the gravel driveway extension as another variance request. T. Nelson asked for approval to amend the application to request another variance to allow gravel. B. DiFucci cited code section 1270.02 (i) (3) – Driveways should be hard-surfaced. Variance request to allow gravel. T. Nelson said he doesn't plan on widening the apron of the driveway, just the approach into the garage.

P. Laurien asked the applicant if he would have some sort of a T Driveway since he will no longer have a horseshoe driveway, so he doesn't back his boats/vehicles out into the road. T. Nelson said he didn't have a plan for a T as he would like to square up the area. He showed the board members on the plot plan his desire plan for the driveway. P. Laurien understands there isn't a lot of traffic on Sunnyside and it's a relatively rural area, but it would be far better for him to do his backing off the street rather than stopping and backing in. He suggested a T Driveway to maneuver. T. Nelson said he didn't plan on digging up anymore green space. P. Laurien asked why he wouldn't move the barn back a little bit, so he can keep his driveway. T. Nelson said it gets too wet in the back and he didn't want to spend a ton of money to build the area up, since it's the lowest area of the property and it has standing water until summer. P. Laurien asked if he considered twisting it. T. Nelson said he has a 25' setback requirement on one side and he was trying to keep a little separation between the house and the garage. P. Laurien said it seems like if the barn was turned, he could keep his driveway and he wouldn't have any other issues. T. Nelson said his septic system is in the area too, so he couldn't come over anymore to the north.

P. Laurien said he felt like it was appropriate for the applicant to locate the barn as is. He understands he has an issue with the septic system location and with wet soils, but thought he could solve his problem with backing in by doing some kind of a T turnaround in front of the barn and thought this should be the tradeoff by allowing the building to be larger than it normally would be and to have it facing front and eliminating his loop driveway. It seems like there is no reason to be backing long vehicles with boats on this road when people could approach quickly. They could eliminate the safety issue if they would do what he is suggesting. He is in favor of both variances if the applicant would agree to do some sort of a T turnaround. B. Voltz didn't feel this was in the boards purview to require anything like this. P. Laurien said he can ask. B. Voltz said he did, but he doesn't know if they have any say to attempt to demand anything like this. P. Laurien said no but they don't have any responsibility to grant the variance either. B. Voltz understood and agreed.

B. Voltz MOVED; G. LeBlanc seconded to approve both variances as cited above. Discussion: G. LeBlanc encouraged the applicant to think about P. Laurien's suggestion which is a good solution. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

[R-S] 427 Walnut St; Applicant: Nick Blubaugh (Shed Location – Rear/Side Yard Setbacks)

Applicable City code section(s) cited:

1272.12 (c) Rear yard not less than 5' – proposed = 1'; variance request of 4'

1272.12 (c) Side yard not less than 6' – proposed = 1'; variance request of 5'

Nick Blubaugh was present to represent the property owner Robert Digeronimo. The intent of the variance request is for a rear and side yard setback to place a detached shed.

P. Laurien said there was a shed already on the property and asked what the size of it was. N. Blubaugh was uncertain but thought it was about 4' tall x 3' x 3'. The proposed shed will be lumber frame and white vinyl siding. The roof will be pitched from back to front with asphalt shingles. P. Laurien asked what the distance was to the neighboring wall. N. Blubaugh said from the front of the proposed shed it's a little over 7'. B. Voltz wasn't certain he was answering P. Laurien's question, so P. Laurien clarified that the building separation from the shed as proposed to the back wall of house behind them. He asked if they would be 1' off the property line and N. Blubaugh confirmed. P. Laurien asked why they wouldn't consider putting the shed on the north side of the house. N. Blubaugh said there is a patio and AC units. P. Laurien said they have space there. N. Blubaugh believed there was another utility that comes out at the middle of that wall which would be in the way of the shed. P. Laurien asked the building inspector what's the side yard setback on the north side. B. DiFucci said the side yard setback in the R-S district would be 6'. P. Laurien advised that they could accommodate this. N. Blubaugh said the house is already within 1' of that line. P. Laurien responded by saying they have a driveway and a patio to the north, so why don't they consider putting this storage shed on the north side of the lot. N. Blubaugh said because there is the driveway and the pergola on the north side. P. Laurien said that's their problem. He's concerned about being 1' from the back-property line with a shed with combustible materials in a high-density area and hopefully they wouldn't get a major fire started in that neighborhood. To introduce something that close to the property line with the next house being only 7' away is inappropriate if there's an alternative location that works, and he thinks they have an alternative location. He told him that they don't need to locate it there. N. Blubaugh confirmed that he was saying that the alternative location is in the driveway and P. Laurien responded with a yes and on the north side. G. LeBlanc asked if there are any fire codes that are applicable to this. B. DiFucci said no because it's an accessory building. G. LeBlanc asked what the proposed use is for this shed. N. Blubaugh said it will be used for storage. B. Voltz asked if this shed would block some windows that are in the back of the house. P. Laurien wasn't certain there were bedrooms in the back, but if there are, they're already sub-standard, which is another worry. They don't want to block them even further with a shed. He thinks this is a right thing in the wrong place. N. Blubaugh wasn't aware of the use of those rooms. B. Voltz said it's not the boards task to solve the problem, but to determine whether they accept the variance request. P. Laurien said to get a variance like this there should be some exceptional circumstances. B. Voltz fully agreed and the intent of the process is that they present the hardship and explain why it's necessary. P. Laurien believed the owner has an alternative, therefore, there is no need to grant the variance in his opinion.

G. LeBlanc MOVED; B. Voltz seconded to approve the variance requests as submitted. Roll Call Vote 4 NAYS. **MOTION FAILED.**

[R-S] 806 Aurora Drive; Applicant: Mark & Marlene Shepard (Detached Garage – Rear/Side Yard Setbacks)

Applicable City code section(s) cited:

1270.09 (e) (2) (C) *Side yard not less than 7' – proposed = 2'; variance request of 5' as amended*

1272.11 (b) *Rear yard not less than 10' – proposed = 4'; variance request of 6'*

Mark Shepard of 7556 Deer Path, Brecksville, Ohio explained the reasoning for his variance request is that this house is in Blue Bird Beach, which has 35' wide lots and 81' deep lots. He would like to build a garage on the property. They purchased the property in July of 2019 and appeared before the Zoning Board in October to ask for a variance. They are building the property on the same foundation, but because they were only 2 ½' off the property line they had to ask for the variance, which was granted. Now they're asking for a variance for a garage – a small facility because there is no storage space in the house, plus they want to be able to put their cars someplace when they're at the house. The house next door on the south side has a 12' x 22' garage which is 1' off the property line and it was built in 2005. He noted he dropped off a revised set of drawings to satisfy concerns of his neighbors after having discussions. They started with a 12' x 22' and he said he could go 12' x 20', and he measured his truck, and anything less wouldn't be able to accommodate his truck, so he's trying to compromise with his neighbor. He said Travis Mayer of Vermilion prepared the design of the house and the garage. The garage will be a mini-me version of the house.

P. Laurien said he reviewed the first plan that was submitted with the application and he's having a hard time figuring out whether Mike Hall's house was improperly located on the first plan because it looks like his house has moved forward on the second plan. M. Shepard said on the second plan he had the property surveyed in October and the architect took the actual physical measurements of this house, so therefore you see the difference on the second version. P. Laurien said the Hall house before was adjacent to his house and now it's behind his house. M. Shepard said the plot plan isn't always necessarily correct when you go to the county auditor's website. P. Laurien said he is hoping that he didn't draw this plot plan off the county auditor's website. M. Shepard said he had it surveyed of which the second version shows, but the first plot plan was drawn off the website. P. Laurien said the architects plan stipulates the exterior wall to be a one-hour construction (fire-rated), so what is the material. M. Shepard said it's going to be the fire-proof OBX, which was the same thing they did on house. It must be fire-resistant. P. Laurien asked if it's vinyl. M. Shepard said the outside will be vinyl just like his current house. B. DiFucci conveyed that it must be fire-rated from both sides, with the outside being the fire-retardant sheeting and the vinyl siding is fire-resistant. P. Laurien said he would be a lot happier if it was fiber cement siding or some other material that isn't combustible. B. DiFucci said they have multiple ways of meeting this requirement and it's their discretion of which way they choose.

G. LeBlanc asked M. Shepard if he reached out to the neighbor to the west. M. Shepard said every time he has gone to press the gate it has been locked and nobody has ever let him in where he could ask if they would be okay with it. Plus, they have big mounds in their back yard, so he can't even see their house.

Mike Hall of 792 Aurora Drive said Mark Shepard is a good neighbor, but he does have a couple issues with this garage; one would be that it's literally 1' off his property line and 4' to the rear of where his overhang and gutter is. His gutter is pretty much in line with his property line, so he isn't sure how tall his will be, but if it's going to be 12' or 15' tall it will be like having a wall blocking him off from everyone, because it's 12' off his property line. Another concern is that he has pets buried there with some granite tombstones and it will be about 18' from that garage, so he wasn't sure how Mike Shepard could work on this without disturbing those. He said it's wet there all the time because Mr. Elden has a lot of pines trees in the back that block the sun, so he's thinking that if this garage gets built being that tall, then it could also make the property more saturated with water because no sun will get to it. The sun doesn't get back there a lot as it is. Mainly, it's just so close. He said they had something worked out, but it changed, and he isn't sure why. He thought it was going to be 18' long and 2' off the property line and he told M.

Shepard that he would consider that, but he told them once they staked it off at 2' it would be better, but he still needed to think about it. He said it's too close and he feels boxed in because his house sits so far close to that property line. If it was over 4' or 5' then he would have no issue with it.

P. Laurien offered a slight alternative by twisting it a few degrees, so they could back out and make a slight bend, then they could move it further away from M. Hall's house in the front and to the rear. M. Shepard said he is a symmetrical guy, and this wasn't his idea of how this will go, so instead of asking for a 1' offset, he would be willing to ask for a 2' offset. He asked Mike if that would make him feel better. M. Hall said it would, but it's so close and he will feel like there is a huge wall there. P. Laurien said it's a fire hazard as garage fires happen all the time. M. Hall thought it was going to be 18' long. M. Shepard said he moved it to 20' as his truck wasn't going to fit. Upon review, M. Shepard said he would be willing to amend the side yard variance request at a proposed 2', making the variance request 5'.

B. Voltz conveyed there are several people listed as being contacted and asked M. Shepard if he personally spoke with all the neighbors. M. Shepard said yes, they are all aware. B. Voltz said they are aware that there isn't a Jim Anderson that resides at 814 Aurora as its owned by Kemo Properties. M. Shepard stated that he thought they moved. M. Hall said some guy owns the house and rents it out. It was noted they were never contacted about the variance request.

Mike Hall noted that his gutter runs to the south because when he put a new foundation on his house there was a water table there, so he literally had to put drain tile in, and he wants to make sure no water from that building gets onto his property. M. Shepard said he would run it toward the back of the property. M. Hall said if he is talking about it being 2' of his property then it will roll right onto his property, but if he wanted to shoot it the south. B. Voltz said his gutters will run north and south, so you're either going to discharge to the north side or to the south side.

M. Hall noted that the property owner to the south may have said something if they had known about the variance request, but since they don't live there that's probably why they didn't know about it.

B. Voltz MOVED; G. LeBlanc seconded to grant the variance requests as submitted and amended. Roll Call Vote 2 YEAS (LeBlanc, Voltz); 2 NAYS (Laurien, Chrulski). **MOTION FAILED.**

[A-1] 2465 Vermilion Road; Applicant: Robert C. Gow (Side Yard Setback for a Pole Barn)

Applicable City code section(s) cited:

1270.01 (e) (3) (C) Side yards not less than 25' – proposed = 18'; variance request of 7'

Robert Gow said he is requesting permission to erect a pole barn 18 feet from the property line due to the location of his geothermal line that comes off the house and goes back into the woods, so he's trying to get away from drilling into them.

G. LeBlanc asked if had a schematic or configuration of the geothermal system. R. Gow said no as the last owner built the house and told him where they were. He said there is already a shed on the property that he will tear down, and the previous owner got a 16' variance to build the shed. He said he spoke with both neighbors and they don't have any problems with this variance request. D. Chrulski said for the record he did speak with his neighbor Marilyn and she is aware

that it's 18' off her side property line and she had no issue with it whatsoever, so she was in favor of the 7' variance.

P. Laurien said this is a rural area and the lots are large and this property is set back so far and is heavy wooded. He said the geothermal system is an exceptional condition, so he felt this was appropriate in granting a variance.

P. Laurien MOVED; D. Chrulski seconded to approve the variance request as submitted. Roll Call Vote 4 YEAS. **MOTION CARRIED**.

Adjournment:

B. Voltz adjourned the meeting after no further business was entertained.

2018 MEETINGS:

4th Tuesday monthly (except December) - *Next: March 24, 2020 @ 7:00pm*
Municipal Complex Courtroom, 687 Decatur, Vermilion
Gwen Fisher, Certified Municipal Clerk